

To: Richard S. Finkelstein(rick@rctrademark.com)
Subject: U.S. Trademark Application Serial No. 79316492 - BOND - BOND07MPUS
Sent: October 11, 2023 02:18:07 PM EDT
Sent As: tmng.notices@uspto.gov

Attachments

[6548091](#)

United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application Serial No. 79316492

Mark: BOND

Correspondence Address:

Richard S. Finkelstein
RC Trademark Company, LLC
P.O. Box 940
Brookfield CT 06804
UNITED STATES

Applicant: Impossible Labs Limited

Reference/Docket No. BOND07MPUS

Correspondence Email Address: rick@rctrademark.com

NONFINAL OFFICE ACTION

International Registration No. 1604182

The USPTO must receive applicant's response to this letter within six months of the issue date below or the application will be [abandoned](#). Respond using the Trademark Electronic Application System (TEAS). A link to the appropriate TEAS response form appears at the end of this Office action.

Issue date: October 11, 2023

On 12/3/2021, action on this application was suspended pending the disposition of U.S. Application Serial Nos. 88280317, 88351951 and 88351852. The following prior-pending applications have abandoned and are no longer a potential bar to the registration of applicant's mark: Application Serial Nos. 88280317, 88351951 and 88351852. However, the following prior-pending applications have since registered: Application Serial Nos. 88275339. Therefore, registration is refused as follows.

Further, the following refusal(s) and/or requirement(s) is/are maintained and continued: Identification of Goods – Amendment Required. See Suspension Notice dated 12/3/2021 for further clarification.

SUMMARY OF ISSUES:

- Section 2(d) Refusal - Likelihood of Confusion: Limited to Classes 9 and 42

SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION

THIS PARTIAL REFUSAL APPLIES TO CLASS(ES) 9 and 42 ONLY

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 6548091. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the attached registration.

Trademark Act Section 2(d) bars registration of an applied-for mark that is so similar to a registered mark that it is likely consumers would be confused, mistaken, or deceived as to the commercial source of the goods and/or services of the parties. *See* 15 U.S.C. §1052(d). Likelihood of confusion is determined on a case-by-case basis by applying the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973) (called the “*du Pont* factors”). *In re i.am.symbolic, llc*, 866 F.3d 1315, 1322, 123 USPQ2d 1744, 1747 (Fed. Cir. 2017). Any evidence of record related to those factors need be considered; however, “not all of the *DuPont* factors are relevant or of similar weight in every case.” *In re Guild Mortg. Co.*, 912 F.3d 1376, 1379, 129 USPQ2d 1160, 1162 (Fed. Cir. 2019) (quoting *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1406, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997)).

Although not all *du Pont* factors may be relevant, there are generally two key considerations in any likelihood of confusion analysis: (1) the similarities between the compared marks and (2) the relatedness of the compared goods and/or services. *See In re i.am.symbolic, llc*, 866 F.3d at 1322, 123 USPQ2d at 1747 (quoting *Herbko Int’l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002)); *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976) (“The fundamental inquiry mandated by [Section] 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods [or services] and differences in the marks.”); TMEP §1207.01.

Comparison of the Marks

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). “Similarity in any one of these elements may be sufficient to find the marks confusingly similar.” *In re Inn at St. John’s, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014)), *aff’d per curiam*, 777 F. App’x 516, 2019 BL 343921 (Fed. Cir. 2019); TMEP §1207.01(b).

Here, applicant seeks to register the mark BOND in standard characters.

Registrant's mark is BOND in standard characters.

In a likelihood of confusion determination, the marks in their entireties are compared for similarities in appearance, sound, connotation, and commercial impression. *In re i.am.symbolic, llc*, 866 F.3d 1315, 1323, 123 USPQ2d 1744, 1748 (Fed. Cir. 2017); *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973); TMEP §1207.01(b)-(b)(v).

In the present case, the marks are identical in appearance, sound, and meaning, "and have the potential to be used . . . in exactly the same manner." *In re i.am.symbolic, llc*, 116 USPQ2d 1406, 1411 (TTAB 2015), *aff'd*, 866 F.3d 1315, 123 USPQ2d 1744 (Fed. Cir. 2017). Additionally, because they are identical, these marks are likely to engender the same connotation and overall commercial impression when considered in connection with applicant's and registrant's respective goods and/or services. *Id.*

Therefore, the marks are confusingly similar.

Comparison of the Goods and Services

The compared goods and/or services need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000); TMEP §1207.01(a)(i). They need only be "related in some manner and/or if the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source." *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i); *see Made in Nature, LLC v. Pharmavite LLC*, 2022 USPQ2d 557, at *44 (TTAB 2022) (quoting *In re Jump Designs LLC*, 80 USPQ2d 1370, 1374 (TTAB 2006)).

Applicant seeks to register its mark for use on or in connection with:

Class 9: Wearable communications apparatus, namely, smartwatches, bracelets; wearable activity trackers; wearable video display monitors; portable device and apparatus, namely portable wearable bracelet, smartwatch for transmission or production of colours, sounds and images for interaction among users; apparatus for adaption and transformation of signals, namely, magnetically encoded identification bracelets, smartwatches, touch sensing apparatus; apparatus for distant control, localisation, thermal measurements and recognition through air; downloadable software to enable users to securely interact among themselves; downloadable software for ensuring privacy security in wearable devices; downloadable software for signal transmission; downloadable communication software; downloadable communication software for use in wearable devices; downloadable application software for operating wearable activity trackers; downloadable application software for use in operating wearable devices; downloadable sensory software for sensing and transmitting vibration; downloadable sensory software for use in operating wearable devices; downloadable software applications, namely, for wearable device management; downloadable software applications for use in wearable devices, namely, device management and updates; downloadable mobile device management software for updated and managing mobile devices; downloadable mobile device management software for use in updating and managing wearable devices; downloadable computer

programs for operating and connecting with social interaction and safety systems; downloadable operating software programs; downloadable operating mobile applications for signal-based services registered or stored on data or computer carriers, equipment for information technology; computer hardware for signal-based services; downloadable software applications for interacting with mobile devices; downloadable computer application software for connecting with wearable computer devices.

Class 42: Electronic data storage and data backup services; creating website-based indexes of information, websites, portable devices, and other information sources for others using information technology services; Software as a Service (SaaS) featuring software enabling secure interaction among users; Software as a Service (SaaS) for use in operating wearable devices; Platform as a Service (PaaS) featuring software for storing and retrieving electronic data; Platform as a Service [PaaS] featuring software for the activation of vibration sensors for use in wearable devices; design and development of data processing tools; design and development of data processing tools for use in wearable devices; providing technological information relating to development of new products for others in the nature of hosting digital content, namely, wearable devices and communication; software design and development; software design and development for wearable devices; updating and maintenance of computer software; information technology services relating to wearable devices and communication; design and development of wearable devices; writing of computer programs for wearable devices; compilation of data-processing programs for research purposes in the field of communication; compilation of data-processing programs for research purposes in the field of wearable devices; information and advisory related to all of the aforesaid services.

Registrant's mark is used on or in connection with:

Class 9: Computer hardware and downloadable software for monitoring and tracking of people, objects and pets using location data on a device on the tracked people, objects and pets in the field of physical security.

Class 42: Monitoring of security systems, namely, providing video surveillance and drone surveillance for physical security purposes; Cloud based security services, namely, alarm response and identity verification services; Security services, namely, tracking, locating and monitoring the location of people, pets, and objects for the purpose of personal physical security

Determining likelihood of confusion is based on the description of the goods and/or services stated in the application and registration at issue, not on extrinsic evidence of actual use. *See In re Detroit Athletic Co.*, 903 F.3d 1297, 1307, 128 USPQ2d 1047, 1052 (Fed. Cir. 2018) (citing *In re i.am.symbolic, llc*, 866 F.3d 1315, 1325, 123 USPQ2d 1744, 1749 (Fed. Cir. 2017)).

In this case, the registration(s) use(s) broad wording to describe computer hardware, software and security technology, which presumably encompasses all goods and/or services of the type described, including applicant's more narrow goods and services. *See, e.g., Made in Nature, LLC v. Pharmavite LLC*, 2022 USPQ2d 557, at *44 (TTAB 2022); *In re Solid State Design Inc.*, 125 USPQ2d 1409, 1412-15 (TTAB 2018); *Sw. Mgmt., Inc. v. Ocinomled, Ltd.*, 115 USPQ2d 1007, 1025 (TTAB 2015). Thus, applicant's and registrant's goods and services are legally identical. *See, e.g., In re i.am.symbolic, llc*, 127 USPQ2d 1627, 1629 (TTAB 2018) (citing *Tuxedo Monopoly, Inc. v. Gen. Mills Fun Grp., Inc.*, 648 F.2d 1335, 1336, 209 USPQ 986, 988 (C.C.P.A. 1981); *Inter IKEA Sys. B.V. v. Akea, LLC*, 110 USPQ2d 1734, 1745 (TTAB 2014); *Baseball Am. Inc. v. Powerplay Sports Ltd.*, 71 USPQ2d 1844, 1847 n.9 (TTAB 2004)).

Additionally, the goods and/or services of the parties have no restrictions as to nature, type, channels of trade, or classes of purchasers and are “presumed to travel in the same channels of trade to the same class of purchasers.” *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1268, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002)); *Made in Nature, LLC v. Pharmavite LLC*, 2022 USPQ2d 557, at *49. Thus, applicant’s and registrant’s goods and/or services are related.

Conclusion

The overriding concern is not only to prevent buyer confusion as to the source of the goods and services, but to protect the registrant from adverse commercial impact due to use of a similar mark by a newcomer. *See In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). Therefore, any doubt regarding a likelihood of confusion determination is resolved in favor of the registrant. TMEP §1207.01(d)(i); *see Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265, 62 USPQ2d 1001, 1003 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 464-65, 6 USPQ2d 1025, 1026 (Fed. Cir. 1988).

Because the marks are similar and the goods and/or services are related, there is a likelihood of confusion as to the source of applicant’s goods and/or services. Accordingly, applicant’s mark is not entitled to registration.

Although applicant’s mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

CONTACT INFORMATION

Please call or email the assigned trademark examining attorney with questions about this Office action. Although an examining attorney cannot provide legal advice, the examining attorney can provide additional explanation about the refusal(s) and/or requirement(s) in this Office action. *See* TMEP §§705.02, 709.06.

The USPTO does not accept emails as responses to Office actions; however, emails can be used for informal communications and are included in the application record. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

How to respond. [Click to file a response to this nonfinal Office action.](#)

/Molly Segal/
Molly Segal
Examining Attorney
LO105--LAW OFFICE 105
(571) 272-6490
Molly.Segal@USPTO.GOV

RESPONSE GUIDANCE

- **Missing the response deadline to this letter will cause the application to [abandon](#).** The response must be received by the USPTO before midnight **Eastern Time** of the last day of the response period. TEAS maintenance or [unforeseen circumstances](#) could affect an applicant's ability to timely respond.
- **[Responses signed by an unauthorized party](#)** are not accepted and can **cause the application to [abandon](#)**. If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with [legal authority to bind a juristic applicant](#). If applicant has an attorney, the response must be signed by the attorney.
- If needed, **find [contact information for the supervisor](#)** of the office or unit listed in the signature block.

6548091

BOND

Word Mark	BOND <ul style="list-style-type: none">•
	IC 009 US 038 026 023 036 021 Computer hardware and downloadable software for monitoring and tracking of people, objects and pets using location data on a device on the tracked people, objects and pets in the field of physical security.
Goods/Services	<ul style="list-style-type: none">• IC 045 US 100 101 Monitoring of security systems, namely, providing video surveillance and drone surveillance for physical security purposes; Cloud based security services, namely, alarm response and identity verification services; Security services, namely, tracking, locating and monitoring the location of people, pets, and objects for the purpose of personal physical security.
Register	PRINCIPAL
Serial Number	88275339
Filing Date	2019-01-24T00:00:00
Original Filing Basis	1b
Current Filing Basis	1a
Publication Date	2021-06-29
Registration Number	6548091
Date Registered	2021-11-02
Owner	(REGISTRANT) TG-17, LLC (LIMITED LIABILITY COMPANY; DELAWARE); One Marina Park Drive, Suite 900, Boston, MASSACHUSETTS 02210, UNITED STATES
Type of Mark	<ul style="list-style-type: none">• TRADEMARK• SERVICE MARK

Mark Drawing Code	(4) STANDARD CHARACTER MARK
Live Dead Indicator	LIVE
Status	REGISTERED
Attorney of Record	DANIEL P MULLARKEY

Print: October 11, 2023 1:36 PM

United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued
on October 11, 2023 for
U.S. Trademark Application Serial No. 79316492

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action in order to avoid your application abandoning. Follow the steps below.

- (1) [Read the Office action](#). This email is NOT the Office action.
- (2) **Respond to the Office action by the deadline** using the Trademark Electronic Application System (TEAS). Your response must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response period. Otherwise, your application will be [abandoned](#). See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO [website](#), the application process, the status of your application, and whether there are outstanding deadlines to the [Trademark Assistance Center \(TAC\)](#).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

GENERAL GUIDANCE

- [Check the status](#) of your application periodically in the [Trademark Status & Document Retrieval \(TSDR\)](#) database to avoid missing critical deadlines.
- [Update your correspondence email address](#) to ensure you receive important USPTO notices about your application.
- [Beware of trademark-related scams](#). Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. Verify the correspondence originated from us by using your Serial Number in our database, [TSDR](#), to confirm that it appears under the “Documents” tab, or contact the [Trademark Assistance Center](#).
- [Hiring a U.S.-licensed attorney](#). If you do not have an attorney and are not required to

have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.